

ORDINANCE NO. 2007- 002

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ENTITLED "ALL TERRAIN VEHICLE (ATV) OPERATION ON UNPAVED ROADWAYS"; PROVIDING FOR THE INAPPLICABILITY OF SECTION 316.2123, FLORIDA STATUTES IN PALM BEACH COUNTY; PROVIDING FOR ATV OPERATION; PROHIBITION; PROVIDING FOR APPLICABILITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature enacted section 316.2123, Florida Statutes, to prohibit All-Terrain Vehicles ("ATVs") from being operated on public roads and streets; and

WHEREAS, the 2006 Florida Legislature created section 316.2123, Florida Statutes, to allow ATVs to be operated during the daytime on an unpaved roadway where the posted speed limit is less than 35 miles per hour by a licensed driver or by a minor who is supervised by a licensed driver; and

WHEREAS, following a noticed public hearing, a County may exempt itself from section 316.2123, Florida Statutes, by majority vote of the governing board; and

WHEREAS, the Board of County Commissioners of Palm Beach County has determined that ATVs are inherently dangerous due to the large number of fatalities and injuries that occur each year from operating ATVs; and

WHEREAS, the Board finds that the public health, safety, and welfare would be served by exempting Palm Beach County from section 316.2123, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. RECITALS:

The foregoing recitals are true and correct and are incorporated herein.

Section 2. TITLE:

This Ordinance shall be entitled the Palm Beach County All Terrain Vehicle (ATV) Operation on Unpaved Roadways Ordinance.

Section 3. ATV OPERATION; PROHIBITION:

Palm Beach County is exempt from the provisions of section 316.2123, Florida Statutes, which allows All-Terrain Vehicles (ATVs) to be operated during the daytime on

1 unpaved roadways where the posted speed limit is less than 35 miles per hour by a licensed
2 driver or by a minor under the supervision of a licensed driver. ATVs are defined in
3 accordance with section 317.0003, Florida Statutes. ATVs may not be operated during anytime
4 of day or night on an unpaved roadway within Palm Beach County.

5 **Section 4. APPLICABILITY:**

6 This Ordinance shall apply countywide.

7 **Section 5. ENFORCEMENT:**

8 This Ordinance is enforceable by all means provided by law. The provisions of this
9 Ordinance shall be enforced by the Palm Beach County Sheriff's Office and municipal law
10 enforcement officers within their jurisdiction. Additionally, the County may choose to enforce
11 this Ordinance by seeking injunctive relief in the Circuit Court of Palm Beach County.

12 (1) Any violation of this Ordinance is a civil infraction.

13 (2) Any person who has committed an act in violation of this Ordinance shall
14 receive a citation from the Sheriff or any law enforcement officer who has probable cause to
15 believe that the person has committed a civil infraction in violation of this Ordinance.

16 (3) The county court shall have jurisdiction over all violations of this
17 Ordinance.

18 (4) The county clerk shall:

19 (a) Accept designated fines and issue receipts therefore;

20 (b) Provide a uniform citation form serially numbered for notifying alleged
21 violators to appear and answer to charges of violation of this Ordinance.

22 (5) Violation of any provision of this Ordinance shall be punishable by a fine of
23 Five Hundred dollars (\$500.00).

24 (6) Any person issued a citation shall be deemed to be charged with a civil violation
25 and shall comply with the directives on the citation.

26 (7) Payment shall be made, either by mail or in person, to the Violations Bureau
27 within the time specified on the citation. If a person follows this procedure, s/he shall be
28 deemed to have admitted the infraction and to have waived his/her right to a hearing on the
29 issue of commission of the infraction.

30 (8) All fines collected as a result of said citations (except those fines collected as a
31 result of citations issued by municipal law enforcement officers, which shall be remitted by the

Clerk of the Court directly to the municipality issuing the citation) shall be paid into the County Treasury and deposited into the County's general fund.

(9) Any person who fails to make payment within the specified period shall be deemed to have waived his/her right to pay the civil penalty as set forth in the citation.

(10) Any person who elects to appear before the court to contest the citation shall be deemed to have waived his/her right to pay the civil penalty. The court, after a hearing, shall make a determination as to whether a violation has occurred and may impose a civil penalty of Five Hundred dollars (\$500.00) plus court costs.

(11) If a person fails to pay the civil penalty, or fails to appear in court to contest the citation, s/he shall be deemed to have waived his/her right to contest the citation; and in such case, a default judgment may be entered and the judge shall impose a fine at that time. An order to show cause may be issued. If the fine is paid, the case shall be dismissed. If the fine is not paid, judgment may be entered up to the maximum civil penalty.

(12) Any person cited for an infraction under this Ordinance shall sign and accept the citation indicating a promise to pay the fine or appear in court. Any person who willfully refuses to sign and accept a citation issued by an officer shall be guilty of a misdemeanor of the second degree, punishable as provided by Sections 775.082 or 775.083, Florida Statutes.

(13) Failure to comply with the requirements of this Ordinance shall constitute a violation of a County Ordinance, and shall be punishable, upon conviction, pursuant to Section 125.69(1), Florida Statutes, by a fine of Five Hundred dollars (\$500.00) per violation or imprisonment not exceeding sixty (60) days, or both such fine and imprisonment. In addition to the sanctions contained herein, the County shall take any other appropriate legal action, including, but not limited to, administrative action and requests for temporary and permanent injunctions to enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide additional cumulative remedies.

Section 6. PENALTY:

Any violation of any portion of this Ordinance shall be punishable as provided by law. A person who violates this Ordinance shall be punished by a fine of \$ 500.00 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment. Any person violating any of the provisions of this Ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted.

1
2 **Section 7. SEVERABILITY:**

3 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
4 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,
5 such holding shall not affect the remainder of this Ordinance.

6 **Section 8. REPEAL OF LAWS IN CONFLICT:**

7 All local laws and ordinances in conflict with any provisions of this Ordinance are
8 hereby repealed to the extent of such conflict.

9 **Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

10 The provisions of this Ordinance shall become and be made a part of the Palm Beach
11 County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish
12 such, and the word "ordinance" may be changed to "section," "article," or other appropriate
13 word.

14 **Section 10. CAPTIONS:**

15 The captions, section headings, and section designations used in this Ordinance are for
16 convenience only and shall have no effect on the interpretation of the provisions of this
17 Ordinance.

18 **Section 11. EFFECTIVE DATE:**

19 The provisions of this Ordinance shall become effective upon filing with the
20 Department of State.

21 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
22 County, Florida, on this the 27th day of February, 2007.

24 SHARON R. BOCK
25 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

26
27 By: Judith Crook
28 Deputy Clerk

By: Addie L. Greene
Addie L. Greene, Chairperson

31 APPROVED AS TO FORM AND
32 LEGAL SUFFICIENCY

33
34
35 By: [Signature]
36 Assistant County Attorney
37

38 EFFECTIVE DATE: Filed with the Department of State on the 6th day of
39 March, 2007.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and Comptroller,
certify this to be a true and correct copy of the original
filed in my office on February 27th, 2007
dated at West Palm Beach, Florida 3/19/08
4 By: Diane Browne
Deputy Clerk